

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 4:00-CR-15 CAS
	)	
KENNETH HOWARD,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**


This closed criminal matter is before the Court on defendant's "Response to an Order Issued November 3, 2005 and Request for Files and Sentencing Transcript Held by the District Court Clerk." The Order of November 3, 2005, directed defendant to indicate within twenty days why he had filed a motion to proceed in forma pauperis in this case. Defendant did not file a response to the Order, and on December 16, 2005 the Court denied the motion to proceed in forma pauperis without prejudice. Defendant subsequently sought and was granted leave to file a response to the Order of November 3, 2005 out of time.

The Court interprets the Response as a motion to provide defendant with copies of the Court file and sentencing transcript at government expense. Defendant states that he intended to "proceed with his request for a full and complete copy of the files now held within the District Court. . . . The files are needed to complete a full investigation into a possible successive motion under 28 U.S.C. § 2255 allowing for a few inquiries into the claims at large. . . . The plea and Sentencing Transcript copy as stated in Section 2 of this motion would also assists the investigation of the claims at large." Defendant's Response at ¶¶ 1-3.

Defendant's motion will be denied. A habeas petitioner is not entitled to copies of transcripts at government expense prior to filing a section 2255 motion. Chapman v. United States, 55 F.3d 390, 391 (8th Cir. 1995). Similarly, a petitioner is not entitled to copies of documents from the Court file at government expense where there is not a pending, non-frivolous case, as the Court cannot determine whether access to the requested documents is required to decide issues presented in such a case.

Accordingly,

**IT IS HEREBY ORDERED** that defendant's Request for Files and Sentencing Transcript Held by the District Court Clerk, construed as a motion for copies of the Court file and sentencing transcript at government expense, is **DENIED**. [Doc. 72]

  
**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 29th day of December, 2005.